

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

2008 MAY 20 A 8: 26

Vincent Lawrence Barr, #245797,) C. A. No. 2:08-cv-00993-CMC-RSC
)
Petitioner,)
)
-versus-) **REPORT AND RECOMMENDATION**
)
Director, Williamsburg County)
Detention Center,)
)
Respondent.)
_____)

On March 21, 2008, the Petitioner brought this action seeking relief pursuant to Title 28, United States Code, Section 2254. On April 17, 2008, he was Ordered at that time to "keep the Clerk of Court advised in writing (Post Office Box 835, Charleston, South Carolina 29201) if your address changes for any reason . . . If as a result of your failure to comply with this order, you fail to file something you are required to file within a deadline . . . your case may be dismissed for violating this order." (Emphasis in original). This order was mailed to the Petitioner's last known address (Williamsburg County Detention Center, 207 South Jackson Street, Kingstree, South Carolina 29556). The envelope containing this order was returned to the court on April 28, 2008, marked "Return to Sender - Not Deliverable as Addressed - Unable to Forward". The Clerk of Court contacted the Williamsburg County Detention Center and was advised that the Petitioner was released on March 27, 2008.

On May 8, 2008, the Respondent filed a Motion to Dismiss. On May 9, 2007, a Roseboro Order along with a copy of the Order of April 17, 2008, were forwarded to the Petitioner by the court to a new address obtained by the Respondent from the Williamsburg County Probation Office (10630 Hemingway Hwy., Hemingway, South Carolina 29554). The envelope containing these orders were returned to the court on May 19, 2008, marked "Return to Sender - Attempted - Not Known - Unable to Forward".

Based on the foregoing inability to contact the Petitioner and Petitioner's failure to keep the court advised of his address, it is recommended that this action be dismissed for lack of prosecution.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Robert S. Carr", written in a cursive style.

Robert S. Carr
United States Magistrate Judge

Charleston, South Carolina

May 19, 2008

Notice of Right to File Objections to Report and Recommendation

The parties are advised that they may file specific written objections to this Report and Recommendation with the District Court Judge. Objections must specifically identify the portions of the Report and Recommendation to which objections are made and the basis for such objections. In the absence of a timely filed objection, a district court judge need not conduct a de novo review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310 (4th Cir. 2005).

Specific written objections must be filed within ten (10) days of the date of service of this Report and Recommendation. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). The time calculation of this ten-day period excludes weekends and holidays and provides for an additional three (3) days for filing by mail. Fed. R. Civ. P. 6(a) & (e). Filing by mail pursuant to Fed. R. Civ. P. 5 may be accomplished by mailing objections to:

Larry W. Propes, Clerk
United States District Court
P.O. Box 835
Charleston, South Carolina 29402

Failure to timely file specific written objections to this Report and Recommendation will result in waiver of the right to appeal from a judgment of the District Court based upon such Recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985).